

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER



0000010432

MEETING ITEM  
RECEIVED

cop1-8  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

2001 MAR 14 P 12:22  
Arizona Corporation Commission

DOCKETED  
ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL  
MAR 14 2001

DATE: March 14, 2001  
DOCKET NO: T-03846A-00-0143  
TO ALL PARTIES:

|             |           |
|-------------|-----------|
| DOCKETED BY | <i>mc</i> |
|-------------|-----------|

Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Order on:

LOTEL, INC. dba COORDINATED BILLING SERVICES, INC.  
(RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 23, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 27, 2001 and MARCH 28, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

*[Signature]*  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 MARC SPITZER  
COMMISSIONER

5  
6 IN THE MATTER OF THE APPLICATION OF  
7 LOTEL, INC. D/B/A COORDINATED BILLING  
8 SERVICES FOR A CERTIFICATE OF  
9 CONVENIENCE AND NECESSITY TO PROVIDE  
COMPETITIVE RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES EXCEPT  
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03846A-00-0143

DECISION NO. \_\_\_\_\_

**ORDER**

10 Open Meeting  
11 March 27 and 28, 2001  
12 Phoenix, Arizona

**BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the  
14 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On March 2, 2000, LoTel, Inc. d/b/a Coordinated Billing Services ("Applicant") filed  
17 with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to  
18 provide competitive resold interexchange telecommunications services, except local exchange  
19 services, within the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
21 telecommunications providers ("resellers") were public service corporations subject to the  
22 jurisdiction of the Commission.

23 3. Applicant is a Minnesota corporation authorized to do business in Arizona since 1999.

24 4. Applicant is a switchless reseller, which purchases telecommunications services from  
25 various telecommunications service providers.

26 5. On September 22, 2000, the Commission's Utilities Division Staff ("Staff") filed its  
27 Staff Report in this matter.  
28

1           6.       Staff stated that the Applicant provided its financial statements for the period ending  
2 September 30, 1999, which listed assets of \$250,915, and shareholders' equity of \$235,367. In  
3 addition, Applicant had a net profit of \$263,997 on revenues of \$2.9 million. Based on the foregoing,  
4 Staff believes that Applicant lacks adequate financial resources to be allowed to charge customers  
5 any prepayments, advances or deposits without establishing an escrow account or posting a surety  
6 bond. Applicant stated in its application that it does not currently, and will not in the future, charge  
7 its customers for any prepayments, advances or deposits.

8           7.       The Staff Report stated that Applicant has no market power and the reasonableness of  
9 its rates would be evaluated in a market with numerous competitors.

10          8.       In its Report, Staff recommended the following:

11           (a)      Applicant should be ordered to comply with all Commission rules, orders and  
12 other requirements relevant to the provision of intrastate telecommunications services;

13           (b)      Applicant should be ordered to maintain its accounts and records as required  
14 by the Commission;

15           (c)      Applicant should be ordered to file with the Commission all financial and other  
16 reports that the Commission may require, and in a form and at such times as the  
Commission may designate;

17           (d)      Applicant should be ordered to maintain on file with the Commission all  
18 current tariffs and rates, and any service standards that the Commission may require;

19           (e)      Applicant should be ordered to comply with the Commission's rules and  
20 modify its tariffs to conform to these rules if it is determined that there is a conflict  
between the Applicant's tariffs and the Commission's rules;

21           (f)      Applicant should be ordered to cooperate with Commission investigations of  
22 customer complaints;

23           (g)      Applicant should be ordered to participate in and contribute to a universal  
24 service fund, as required by the Commission;

25           (h)      Applicant should be ordered to notify the Commission immediately upon  
26 changes to the Applicant's address or telephone number;

27           (i)      If at some future date, the applicant wants to charge any prepayments,  
28 advances, or deposits, it must file information with the Commission that demonstrates  
the Applicant's financial viability. Upon receipt of such filing, Staff will review the  
information and the Commission will make a determination concerning the

1 Applicant's financial viability and whether customer prepayments, advances or  
2 deposits should be allowed;

3 (j) Applicant's intrastate interexchange service offerings should be classified as  
4 competitive pursuant to A.A.C. R14-2-1108;

5 (k) The rates proposed by the Applicant in its most recently filed tariffs should be  
6 approved on an interim basis. The maximum rates for these services should be the  
7 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates  
8 for the Applicant's competitive services should be the Applicant's total service long  
9 run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;  
10 and

11 (l) In the event that the Applicant states only one rate in its proposed tariff for a  
12 competitive service, the rate stated should be the effective (actual) price to be charged  
13 for the service as well as the service's maximum rate.

14 9. On August 29, 2000, the Court of Appeals, Division One ("Court") issued its Opinion  
15 in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding  
16 that "the Arizona Constitution requires the Commission to determine fair value rate base ("FVRB")  
17 for all public service corporations in Arizona prior to setting their rates and charges."

18 10. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
19 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this  
20 time, we are going to request FVRB information to insure compliance with the Constitution should  
21 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are  
22 also concerned that the cost and complexity of FVRB determinations must not offend the  
23 Telecommunications Act of 1996.

24 11. On November 24, 2000, Applicant filed Affidavits of Publication indicating  
25 compliance with the Commission's notice requirements.

26 12. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
27 be held.

#### 28 CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the  
Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the

1 application.

2 3. Notice of the application was given in accordance with the law.

3 4. Applicant's provision of resold intrastate telecommunications services is in the public  
4 interest.

5 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive  
6 intrastate telecommunications as a reseller in Arizona.

7 6. Staff's recommendations in Findings of Fact No. 8 are reasonable and should be  
8 adopted.

9 **ORDER**

10 IT IS THEREFORE ORDERED that the application for LoTel, Inc. d/b/a Coordinated Billing  
11 Services for a Certificate of Convenience and Necessity for authority to provide competitive resold  
12 interexchange telecommunications services, except local exchange services, shall be and the same is  
13 hereby granted, except that LoTel, Inc. d/b/a Coordinated Billing Services shall not be authorized to  
14 charge customers any prepayments, advances, or deposits. In the future, if LoTel, Inc. d/b/a  
15 Coordinated Billing Services desires to initiate such charges, it must file information with the  
16 Commission that demonstrates the Applicant's financial viability. Staff shall review the information  
17 provided and file its recommendation concerning financial viability and/or the necessity of obtaining  
18 a performance bond within thirty (30) days of receipt of the financial information, for Commission  
19 approval.

20 IT IS FURTHER ORDERED that LoTel, Inc. d/b/a Coordinated Billing Services shall  
21 comply with the Staff recommendations set forth in Findings of Fact No 8.

22 IT IS FURTHER ORDERED that LoTel, Inc. d/b/a Coordinated Billing Services shall file the  
23 following FVRB information within 18 months of the date that it first provides service. The FVRB  
24 shall include a dollar amount representing the total revenue for the first twelve months of  
25 telecommunications service provided to Arizona customers LoTel, Inc. d/b/a Coordinated Billing  
26 Services following certification, adjusted to reflect the maximum rates that LoTel, Inc. d/b/a  
27 Coordinated Billing Services requests in its tariff. This adjusted total revenue figure could be  
28 calculated as the number of units sold for all services offered times the maximum charge per unit

LoTel, Inc. d/b/a Coordinated Billing Services shall also file FVRB information detailing the total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers LoTel, Inc. d/b/a Coordinated Billing Services following certification. LoTel, Inc. d/b/a Coordinated Billing Services shall also file FVRB information which includes a description and value of all assets, including plant, equipment, and office supplies, to be used to provide telecommunications service to Arizona customers for the first twelve months following LoTel, Inc. d/b/a Coordinated Billing Services' certification.

IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, LoTel, Inc. d/b/a Coordinated Billing Services shall notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2001.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

AG:dp

1 SERVICE LIST FOR:

LOTEL, INC. D/B/A COORDINATED BILLING SERVICES

2 DOCKET NO.:

T-03846A-00-0143

3 Sarah L. Oistad

4 LOTEL, INC.

4946 Devonshire Circle

5 Excelsior, Minnesota 55331

6 Christopher Kempley, Chief Counsel

Legal Division

7 ARIZONA CORPORATION COMMISSION

1200 West Washington Street

8 Phoenix, Arizona 85007

9 Deborah Scott, Director

Utilities Division

10 ARIZONA CORPORATION COMMISSION

1200 West Washington Street

11 Phoenix, Arizona 85007